IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4166 of 2007()

CRIME NO.180/06 OF PATTAMBI POLICE STATION

PETITIONERS/ACCUSED

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1. P.M.KUNJAPPUTTY, PAKKADU HOUSE,
   CHIRAKKAL P.O., KATTAKAMBAL, THRISSUR DISTRICT.

2. AYISHA, W/O.P.M.KUNJAPPUTTY,
   -DO-, -DO-.

3. SAINABA, D/O.P.M.KUNJAPPUTTY,
   W/O.MOOSA, -DO-, -DO-.

BY ADV. SRI.RAJIT

RESPONDENTS: STATE

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4166 of 2007

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Dated this the 10th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations under Section 498A I.P.C. The petitioners are the relatives of the husband of the defacto complainant. In the F.I. statement lodged, seven persons were arrayed as accused. In the final report, the police filed charge sheet only against the husband of the defacto complainant. Aggrieved by the final report, a protest complaint was filed against all the seven accused persons. Cognizance has been taken by the learned Magistrate of the offences against five accused persons. All the five accused persons, including the petitioners 1 and 2 herein, have appeared before the learned Magistrate and have been enlarged on bail. In the meantime, on the complaint filed by the defacto complainant, the police is further investigating the case under Section 173(8) Cr.P.C. The petitioners apprehend that they may be brought on the array of accused by the police in such further investigation and they may be arrested. Hence the petitioners have come to this court seeking directions under Section 438 Cr.P.C.

2. The learned Prosecutor, on instructions, submits that the third petitioner is not required to be arrested at all. The petition filed by the third petitioner can, in these circumstances, be dismissed as unnecessary as their apprehension is found to be baseless. So far as the petitioners 1 and 2 are concerned, I am satisfied that directions under Section 438 Cr.P.C. can be issued in their favour. It is not necessary to direct the petitioners to surrender before the learned Magistrate as it is evident that they are already on bail in the private complaint.

3. This application is accordingly allowed in part. In so far as it relates to the 3rd petitioner, the petition is dismissed accepting the submission of the learned Prosecutor. Petitioners 1 and 2, if arrested, shall be released on regular bail by the Arresting Officer on condition that they execute bonds for Rs.25,000/- each without any sureties.

(R. BASANT)
Judge

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